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SUBJECT: Khmer Rouge Tribunal: The Trial of S-21
Interrogation Center Head Kaing Guek Eav, Week 19

REF: PHNOM PENH 646 AND PREVIOUS

1. (SBU) SUMMARY: Embassy staff routinely observes the proceedings of the trial against the notorious Khmer Rouge (KR) torture center head, widely known as Duch, at the Extraordinary Chambers in the Courts of Cambodia (ECCC) (Reftel). This report summarizes the 19th week of activities inside the court at the Khmer Rouge Tribunal. More technical accounts of the proceedings can be found at: www.csdccambodia.org; www.kidccambodia.org and at <http://socrates.berkeley.edu/~warcrime/>. END SUMMARY.

Duch Humanized, Civil Parties Protest, and Additional Investigations Allowed

2. (SBU) Character witness testimony was overshadowed on week 19 by a September 2 decision from the pre-trial chamber which effectively paves the way for the ECCC to proceed with additional criminal investigations against former leaders of the Khmer Rouge. The investigation of further suspects has been a contentious issue in and out of the court, with the national and international co-prosecutors at odds on how to best fulfill the mandate of the ECCC. The week's proceedings highlighted additional controversies within the court, as civil parties boycotted and their lawyers were barred from questioning character witnesses. When the civil party lawyers raised repeated objections, the tribunal disconnected their microphones and prohibited them from intervening during the remainder of character witness testimonies. Translation from French was problematic for witnesses, who generally painted a rosy picture of Duch as a fellow student, teacher, and colleague during the period before and after the Khmer Rouge.

3. (SBU) Herewith are observation notes for the week beginning August 31, 2009:

Tuesday, September 1, 2009: The audience was only approximately half-full and mainly consisted of Cambodian males. Towards the end of the afternoon, only a handful of observers remained.

Duch Humanized

The tribunal heard the final testimony of two psychologists who presented a summary of their assessment of Duch. The international defense council focused on the experts' suggestion that Duch could be rehabilitated, and recalled their statements that "a person is not born an executioner, but that one becomes an executioner." The experts then stated that Duch could be made "human" again and could be integrated into society. Four character witnesses who knew Duch when he was a student and teacher testified for the remainder of the day. The four universally stated that Duch was a good, humble, hard working and gentle person. One of the witnesses asked and received permission to visit with Duch after the day's proceedings.

Civil Party Discontent

There were several interruptions throughout the day, with judges consulting three to four times on different issues. Civil parties continued their boycott of the proceedings, an act which stemmed from last week's decision by the tribunal to not allow civil parties to question remaining witnesses regarding the character of the accused (Reftel). Of the civil legal teams, only three were present. Lawyers for the civil parties repeatedly asked the court to explain to new witnesses why the civil parties were not allowed to ask questions, and why the civil parties were not in the courtroom. After the third or fourth such request, the tribunal became upset and stated that the civil party lawyers would no longer be heard during the proceedings and summarily disconnected the civil party lawyers' microphones.

The translation of the defense council's questions, originally in French, appeared to be problematic. On multiple occasions the witnesses did not answer the questions asked, but answered on a separate subject altogether.

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